MONTANA LEGISLATIVE HISTORY

Chapter 301 19 67

Bill H 384 S _____ Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Jan 24	✓ C	Hearing Date(s)	Feb 21	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Jan 24	✓ C		Feb 21	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

JUDICIARY COMMITTEE
January 24, 1967

The House Judiciary Committee met January 24, 1967, upon adjournment. Chairman Mather presided. All members were present except Reps. McCulloch, Hall, Prevost and Sullivan, who were excused.

Mr. Wallander moved that HB 178 DO NOT PASS. The motion carried unanimously.

House Bills 193 and 197, the fee bill for district & Supreme Court and Judges Retirement Bill, were heard.

Appearing as proponents were:

Patrick F. Hooks, representing Citizen's Conference Judicial System, who is an attorney from Townsend, Montana
F. E. Young, Helena, Montana, actuary

House Bills 293 and 294, the Turf Bill and the DePuy Bill, were heard.

Appearing as proponents were:

Arnold A. Berger, Attorney, Billings, Montana
James J. Sinclair, Attorney, Billings, Montana

Mr. Berger offered a memo which he asked to have attached to today's minutes and made a part hereof.

Representative Murphy discussed HB 433 as chief sponsor. It is a bill authorizing the Supreme Court to supervise publication, etc. of the Montana Codes. Mr. Murphy moved that the bill be amended so that the act would be in full foce and effect upon its passage and approval. The motion carried. Mr. Murphy moved that HB 433 DO PASS, AS AMENDED. The motion carried unanimously.

Rep. Boughton moved that HBs 293 and 294 DO NOT PASS. The motion carried.

HB 275, the criminal investigator bill, was again discussed. Mr. Goan moved that it Do Not Pass. Mr. Murphy made a substitute motion that HB 275 be passed for the day and that the Attorney General be invited to appear before our committee concerning the bill. A roll call vote was taken, and the motion carried 7 to 5. The Secretary was instructed to ask the Attorney General whether he wished to appear before our committee tomorrow on adjournment.

Rep. Goan moved that HBs 383, 384 and 386, the Montana Business Corporation Act, the Religious Corporation Sole Act, and the Non-profit Corporation Act, be amended to make the laws effective July 1, 1968. The motion carried unanimously. Rep. Goan moved that HBs 383, 384 and 386 DO PASS, AS AMENDED. The motion carried unanimously.

After the committee considered House Bill No. 485, it was moved by Senator Turnage, seconded by Senator Haughey, that House Bill No. 485 be not concurred in. The motion was carried.

After consideration of House Bill No. 200, Senator Turnage made a motion, seconded by Senator McGowan, that House Bill No. 200 be not concurred in. The motion was carried.

After considering House Bill No. 491, it was moved by Senator Haughey, seconded by Senator Turnage, that House Bill No. 491 be not concurred in. The motion was carried.

Amendments were proposed for House Bills 383, 384 and 386. It was agreed upon by the committee to change the effective date of these three bills from July 1, 1968 to December 13, 1968. After considering House Bill No. 383, Senator Turnage made a motion, seconded by Senator Haughey, that the amendments be adopted. The motion was carried. Senator Turnage moved, seconded by Senator Haughey, that House Bill No. 383, as amended, be concurred in. The motion was carried.

After considering the amendment to House Bill No. 384, it was moved by Senator Turnage, seconded by Senator Haughey, that the amendments be adopted. The motion was carried. Senator Hibbs moved, seconded by Senator Dzivi, that House Bill No. 384, as amended, be concurred in. The motion was carried.

Senator McGowan made a motion, seconded by Senator Rasmussen, that the amendments to House Bill No. 386 be adopted. The motion was carried. Senator McGowan then moved, seconded by Senator Rasmussen, that House Bill No. 386, as amended, be concurred in. The motion was carried.

After consideration of House Joint Resolution No. 12, it was moved by Senator Gilfeather, seconded by Senator Haughey, that House Joint Resolution No. 12 be not concurred in. The motion was carried.

After considering the proposed amendments on House Bill No. 195, Senator Dzivi made a motion, seconded by Senator Hibbs, that the amendments be adopted. The motion was carried. Senator Hibbs moved, seconded by Senator Dzivi, that House Bill No. 195, as amended, be concurred in. The motion was carried.

After consideration of House Bill No. 218, it was moved by Senator Haughey, seconded by Senator Dzivi, that House Bill No. 218 be concurred in. The motion was carried.

109, 15-110, 15-111, 15-112, 15-113, 15-114, 15-115, 15-116, 15-117, 15-118, 15-121, 15-201, 15-202, 15-203, 15-204, 15-205, 15-206, 15-207, 15-208, 15-209, 15-210, 15-211, 15-212, 15-213, 15-214, 15-215, 15-216, 15-217, 15-218, 15-219, 15-220, 15-221, 15-222, 15-223, 15-224, 15-225, 15-301, 15-302, 15-303, 15-401, 15-402, 15-403, 15-404, 15-405, 15-406, 15-407, 15-408, 15-409, 15,410, 15-411, 15-412, 15-501, 15-502, 15-503, 15-504, 15-505, 15-506, 15-507, 15-508, 15-509, 15-601, 15-602, 15-604, 15-606, 15-607, 1-608, 15-609, 15-610, 15-611, 15-612, 15-613, 15-614, 15-615, 15-616, 15-617, 15-618, 15-619, 15-620, 15-621, 15-622, 15-623, 15-624, 15-625, 15-626, 15-627, 15-701, 15-702, 15-703, 15-704, 15,705, 15-706, 15-707, 15-708, 15-709, 15-710, 15-711, 15-712, 15-713, 15,714, 15-715, 15-716, 15-717, 15-718, 15-719, 15-720, 15-721, 15-801, 15-802, 15-803, 15-804, 15-805, 15-806, 15-807, 15,808, 15-809, 15-810, 15-811, 15-901, 15-902, 15-903, 15-904, 15-905, 15-906 15-907, 15-908, 15-909, 15-910, 15-911, 15-912, 15-913, 15-1001, 15-1002, 15-1101, 15-1102, 15-1103, 15-1104, 15-1105, 15-1106, 15-1107, 15-1108, 15-1109, 15-1110, 15-1111, 15-1112, 15-1113, 15-1114, 15-1115, 15-1116, 15-1117, 15-1118, 15-1119, 15-1120, 15-1121, 15-1122, 15-1123, 15-1124, 15-1125, 15-1126, 15-1127, 15-1128, 15-1129, 15-1130, 15-1131, 15-1201, 15-1202, 15-1601, 15-1602, 15-1603, 15-1701, 15-1702, 15-1703, 15-1704, 15-1705, 15-1706, 15-1707, 15-1708, 15-1709, 15-1710, 15-1711, 15-1712, 15-1713, 15-1801, 15-1802, 15-1803, 15-1804, 15-1805, 15-1806, 15-1807, 15-1901, 15-1902, 15-1903, 15-1904, 15-1905, 15-1906, 15-1907, 15-1908, 25-103, 25-104, 25-105, 25-106, 25-107, 25-108, 25-109, and 93-4342, R.C.M. 1947, are repealed.

Effective December 31, 1968.

Section 144. This act shall be effective on December 31, 1968.

Approved: March 2, 1967.

CHAPTER 301

An Act for the Codification and General Revision of the Laws of Montana Relating to Religious Corporations Sole; and Repealing Sections 15-1501, 15-1502, 15-1503, 15-1504, 15-1505, 15-1506, 15-1507, R.C.M. 1947; and Providing an Effective Date.

It is the intent of the legislative assembly that this bill be codified as one chapter of title 15, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Religious Corporation Sole Act."

Section 1. **Short title.** This act shall be known and may be cited as the "Montana Religious Corporation Sole Act."

Applicability.

Section 2. **Applicability.** The provisions of this act shall apply to corporations sole now existing or formed in accordance herewith and the Montana Nonprofit Corporation Act shall apply thereto only when not inconsistent with the provisions of this chapter; foreign corporations sole will likewise be governed by the applicable provisions of the Montana Nonprofit Corporation Act when not inconsistent with the provisions of this chapter.

From and after January 1, 1969, this act shall apply to all domestic corporations and to all foreign corporations conducting or seeking to conduct affairs within this state. Those domestic corporations existing at the time that this act becomes effective which have not meanwhile adopted this act, by complying with the provisions of this act, shall, on January 1, 1969, be deemed to have elected to adopt this act by not voluntarily dissolving.

When corporation sole may be created.

Section 3. **When corporation sole may be created.** Whenever the rules, regulations or discipline of any religious denomination, society, or church permit or require the estate, property, temporalities and business thereof to be held in the name of or managed by a bishop, chief priest, or presiding elder, it shall be lawful for such bishop, chief priest or presiding elder of such religious denomination, society, or church to become a corporation sole in the manner herein prescribed.

Articles of incorporation to set forth.

Section 4. **Articles of incorporation.** The articles of incorporation shall set forth:

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The name of the religious denomination, society or church creating the corporation sole.

(d) The name of the bishop, chief priest or presiding elder whose office is incorporated under this act, together with a designation of the boundaries of the territory over which he presides, or over which his jurisdiction extends, and the facts authorizing such incorporation.

(e) The manner in which any vacancy occurring in the incumbency of such bishop, chief priest or presiding elder, as required by the rules, regulations or discipline of such religious denomination, society, or church, shall be filled.

(f) Any provisions, not inconsistent with law, which the incorporator elects to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provisions for distribution of assets on dissolution or final liquidation.

(g) The address of its initial registered office, and the name of its initial registered agent at such address.

(h) The name and address of the incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

Verification.

The articles shall be verified by affidavit of the incorporator and he shall also file the original or a copy or translation of his commission, certificate, or letters of appointment, as such bishop, chief priest, or presiding elder, duly attested, and his affidavit that the same is a true copy or translation shall be deemed as sufficient attestation thereof.

Effect of issuance of certificate of incorporation.

Section 5. **Effect of issuance of certificate of incorporation.** Upon filing the articles of incorporation in the office of the secretary of state with proof of appointment or election of such bishop, chief priest or presiding elder the secretary of state must issue to the corporation, over the great seal of the state, a certificate of incorporation, and upon the issuance of this certificate, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporator have been complied with and that the corporation has been incorporated under this act, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Powers of corporation sole.

Section 6. **Powers of corporation sole.** Every corporation sole, organized under the provisions of this act, for the purpose of the trust hereinafter mentioned, shall have power:

(a) To continue to exist perpetually by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated; provided, that all such property shall be in trust for the use, purpose and benefit of such religious denomination, society or church, for which and in whose behalf such corporation sole is organized.

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(f) To lend money to its employees other than its officers and otherwise assist its employees and officers.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(h) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(i) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(j) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(k) To elect or appoint officers and agents of the corporation, including attorneys-in-fact, and to define their duties and fix their compensation.

(l) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(m) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, scientific or educational purposes.

(n) To indemnify any officer or agent, or any person who may have served at its request as an officer or agent or as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against claims, liabilities, expenses and costs necessarily incurred by him in connection with the defense, compromise or settlement of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or by any bylaw or resolution promulgated by the incorporator or his successor.

(o) To pay pensions and retirement benefits and establish pension plans, pension trusts, insurance plans, and incentive plans for all or any of its officers and employees.

(p) To cease its corporate activities and surrender its corporate franchise.

(q) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Succession.

Section 7. **Succession.** In the event of the death or resignation from office of any bishop, chief priest or presiding elder or of his transfer or removal therefrom by the person or body having the authority to remove him, his successor in office shall succeed to the powers, rights and obligations of the office and shall become vested with the title to the property with like power and authority over the same, and subject to all the legal liabilities and obligations with reference thereto. Succession shall be effected when the successor shall file in the office of the secretary of state the original, or a copy or translation of his commission, certificate or letters of appointment as such bishop, chief priest or presiding elder, duly attested and his affidavit that the same is a true copy or translation shall be deemed sufficient attestation thereof.

Board of advisers or consultors—interim powers.

Section 8. **Board of advisors or consultors—interim powers.** The bishop, chief priest, or presiding elder of the corporation sole created hereby, may appoint a board of advisors or consultors consisting of at least four (4) but not more than six (6) persons of legal age and otherwise qualified according to the rules, regulations or discipline of the denomination, society or church, which board, in addition to its advisory function, shall exercise the powers of the corporatoin upon the death, resignation, transfer, removal or deprivation of office of the bishop, chief priest or presiding elder; and which shall elect an administrator to which it may delegate the executive and administrative functions of the corporation during the interim and until the successor bishop, chief priest or presiding elder is appointed, elected or qualified, according to the rules, regulations or discipline of the denomination, society or church.

Annual report.

Section 9. **Annual report.** Each corporation, subject to the provisions of this chapter, shall file within the time and in the manner prescribed by the Montana Nonprofit Corporation Act, an annual report setting forth:

(1) The name of the corporation and the name of the present incumbent chief corporate officer.

(2) The address of the registered office of the corporation in this state and the name of its registered agent in this state at such address.

(3) The names and respective addresses of the present members of the board of advisors or consultors of the corporation.

(4) The report shall be executed by the chief corporate officer or by an attorney-in-fact acting under a power of attorney filed with the secretary of state by such chief corporate officer.

Amendment of articles of incorporation.

Section 10. **Amendment of articles of incorporation.** Whenever any bishop, chief priest, or presiding elder shall have filed, in the office of the secretary of state, articles of incorporation, under the provisions of an act entitled "An act authorizing and regulating the incorporation of sole corporations and defining their powers," approved February 27, 1899, or amendments thereto, or under this act, such corporation sole may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this act; and such articles of amendment shall be promulgated by the incorporator or his successor by setting forth a statement of the facts authorizing such amendment and the date upon which said amendment was promulgated and his affidavit that the same is a true copy or translation thereof shall be deemed a sufficient attestation thereof.

Unauthorized assumption of corporate powers.

Section 11. **Unauthorized assumption of corporate powers.** All persons who assume to act as a corporation hereunder without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as the result thereof.

Effect of repeal of prior acts.

Section 12. **Effect of repeal of prior acts.** The repeal of a prior act by this act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act, prior to the repeal thereof.

Severability act.

Section 13. **Effect of invalidity of part of this act.** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

Repealing clause.

Section 14. **Repeal of prior acts.** Sections 15-1501, 15-1502, 15-1503, 15-1504, 15-1505, 15-1506, 15-1507, Revised Codes of Montana, 1947, and all other acts or parts of acts in conflict herewith are hereby repealed.

Section 15. This act shall be effective on December 31, 1968.

Approved: March 2, 1967.

Effective December 31, 1968.

CHAPTER 302

An Act Providing for the Regulation and Licensing of the Occupation of Massage; Creating a Board, Providing Qualifications, Powers, Duties, and Compensation; Providing for Examination and Licensing, Disposition of Receipts and Disbursements, and a Penalty for Violation, and Other Requirements.

Be it enacted by the Legislative Assembly of the State of Montana:

Regulation of occupation of massage.

Section 1. **Purpose of act.** It is hereby declared, as a matter of legislative policy in the state of Montana, that the occupation of masseur and masseuse should be regulated and licensed for the protection of the interest, health, and welfare of the people of Montana; that it is necessary to authorize and provide authority to a state board to properly protect the patron public against improper, unauthorized and unqualified masseurs and masseuses and to provide standards of sanitation and practice.

Definitions.

Section 2. **Definitions.**

"Masseur."

a. The term masseur shall include all persons engaged in the occupation of massage and the masculine gender includes the feminine "masseuse".

"Massage."

b. Massage shall mean the trained ability of body massage by hands for the purpose of body massage, the use of oil rubs, salt glows, hot and cold packs, tub, shower or cabinet baths; which includes the application to the patron by the operator's hands by variations of touch, stroking, friction, kneading, vibration, percussion, and gymnastics.

"Massage establishment."

c. Massage establishment as used in this act shall mean any place wherein all or any or more of the above defined procedures and methods are administered or used.

"Board."

d. The term board as used in this act shall mean the Montana board of massage examiners.